

Clark County Code

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13.51.010 Purpose and summary.

The purpose of this chapter is to protect environmentally distinct, fragile and valuable fish and wildlife habitat areas for present and future generations, while also allowing for reasonable use of private property. This chapter intends to conserve the functional integrity of the habitats needed to perpetually support fish and wildlife populations.

These purposes are to be carried out by reviewing impacts of proposed activities within designated habitat areas, and through the development of education, outreach and incentive programs. Review under this chapter shall be based on best available science and the mandates of the Washington Growth Management Act, and shall include consultation with the Washington Department of Fish and Wildlife. Clark County shall emphasize education and voluntary conservation options prior to regulatory enforcement.

Within areas designated by this ordinance, development or clearing activities which degrade habitat should generally be avoided where possible. However, activities listed as exempt in this chapter can be undertaken in habitat areas without additional review. Activities not listed as exempt can be undertaken through county review if they do not substantially diminish the habitat functions and values present.

Further, it is the intent of the board of commissioners that this ordinance be administered with

Chapter 13.51

HABITAT CONSERVATION ORDINANCE

Sections:

- 13.51.010 Purpose and summary.
- 13.51.020 Ordinance applicability and review process.
- 13.51.030 Individual stewardship plans.
- 13.51.040 Definitions.

flexibility and attention to site-specific characteristics. (Sec. 1 of Ord. 1997-05-30)

13.51.020 Ordinance applicability and review process.

(1) Review under the standards of this chapter shall apply to any proposed development or nondevelopment clearing activities within designated habitat areas which are not listed as exempt. Development activities are those proposals already subject to existing county land division, building, grading or other review process. Nondevelopment clearing activities are proposals which are not otherwise subject to county review, but involve the alteration or removal of vegetation in designated habitat areas.

(2) Exempt activities are listed in Section 13.51.060. These do not require review.

(3) Development proposals requiring review under this chapter which involve other county permits shall be reviewed under the timelines and fees of the existing review without additional cost; PROVIDED, that application information required under this chapter (Section 13.51.070) is submitted and approval criteria (Section 13.51.080) is addressed.

(4) Nondevelopment proposals not involving any other county application development reviews shall be reviewed as a Type I ministerial application under the timelines and procedural standards of Section 18.600.060. Section 13.51.070 indicates application information to be submitted.

(5) Approval shall be granted for all proposals demonstrating compliance with Section 13.51.080 criteria. Approval shall be required prior to clearing or development.

(6) Appeals of county decisions under this chapter may be filed under the provisions of Section 18.600.100, Appeal procedure. (Sec. 1 of Ord. 1997-05-30)

13.51.030 Individual stewardship plans.

(1) To encourage educational and voluntary conservation measures, Clark County shall notify property owners potentially impacted by wildlife

habitat area regulations, and shall assist any owners interested in developing individual stewardship plans which will establish parameters and guidelines for future on-site activities in designated habitat areas.

(2) Clark County shall provide information on best management practices and other educational and explanatory materials to property owners. Clark County shall coordinate with the Department of Fish and Wildlife and other agencies or private groups with expertise in wildlife or land management in the development and distribution of these materials.

(3) Clark County shall work cooperatively with interested property owners to establish and record a notice of stewardship plan. Stewardship plans should at a minimum include the following:

(a) Mapping of existing structures, roads, driveways and known utilities, and property lines;

(b) Mapping of existing designated habitat areas, waterbodies, known wetlands, vegetation and wildlife types, and yards or cultivated areas;

(c) Mapping and written description of future activities on the site including time frame;

(d) Mapping and description of mitigative measures, if any, to be undertaken as part of plan; and

(4) Notice of stewardship plans shall be recorded and shall run with the land unless and until a request for revocation or modification has been submitted by the property owner and approved by Clark County. Clark County shall approve all such requests unless there are any uncompleted mitigation measures which were agreed to in the stewardship plan as necessary to compensate for clearing of habitat areas undertaken pursuant to the plan.

(5) Property owners with approved stewardship plans are exempt from regulation under this chapter for nondevelopment proposals which are consistent with the stewardship plan and do not otherwise require county building, grading, or other review.

(6) Stewardship plans shall be approved under criteria in Section 13.51.080. Appeals may be filed

under the provisions of Section 18.600.100. (Sec. 1 of Ord. 1997-05-30)

13.51.040 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Clearing” means the act of removing or destroying trees, brush, groundcover or other vegetation, snags or downed logs, or talus features by manual, mechanical, chemical or any other means.

“Clearing permit” means a permit required for nonexempt clearing of vegetation when no other land use permit specifically authorizes the proposed clearing activity.

“Conversion option harvest plan” means a voluntary plan developed by a forest landowner indicating the limits of harvest areas, road locations and open space, submitted for county approval pursuant to WAC 222-20-050.

“Conservation covenant” means a signed and recorded agreement between a property owner and Clark County running with the land and stipulating that certain areas of the property be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the county.

“Department” means the Clark County planning division.

“Development” means a proposed land use activity which requires county land division, building, grading, or other review under other chapters of the county code.

“Habitat areas” shall include the priority habitats and species (PHS) sites, and locally important habitat (LIH) sites as defined by this chapter and mapped in Exhibit A adopted herein.

“Locally important habitat” means those areas so designated by Clark County by virtue of containing unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators.

“Minimally necessary” shall mean the amount or extent needed to carry out a particular task, and no more.

“Ordinary high water mark” shall mean the point on the sides of streams or lakes which is historically or normally at water’s edge, as identified by a visible change in vegetation and/or soil.

“Nondevelopment clearing” means, for the purposes of this chapter, proposed activities which do not require county land division, building, grading or other review but involve the clearing or alteration of vegetation within designated habitat areas.

“Nuisance vegetation” means noxious weeds such as Tansy Ragwort, purple loosestrife, Eurasian millfoil, nonnative blackberries, or other plants listed as noxious by Clark County pursuant to Section 7.14.070 of this code; or any plant which when established is highly destructive, competitive or difficult to control by manual, mechanical or chemical practices.

“Priority habitat and species” (PHS) shall mean the official definitions and all area classifications by that name used by the Washington Department of Fish and Wildlife (DFW). Known local categories of priority habitat as defined by DFW include riparian habitat, oak woodlands, old growth/mature forest, urban natural open space, talus rock, and caves. Priority species sites include all areas within one thousand (1,000) feet of state listed endangered, threatened, sensitive or candidate species. Clark County shall defer to the DFW in regards to classification, mapping and interpretation of PHS.

“Restoration” means the activities undertaken to re-establish the natural structure or function of habitat area or portion thereof, such as replanting of adequate and appropriate vegetation, soil amendment, or reconstruction of stream banks.

“Riparian zone” means areas encompassing riparian priority habitat, a subset of priority habitat and as defined by the Washington Department of Fish and Wildlife (DFW), extending outward from the ordinary high water mark of waters to the one hundred (100) year floodplain or the following distances if greater: Definitions of the Type 1 through 5 waters are found in WAC 222-16-030:

(a) DNR Type 1 and 2 waters, two hundred fifty (250) feet;

(b) DNR Type 3 waters, two hundred (200) feet;

(c) DNR Type 4 and 5 waters, one hundred fifty (150) feet.

Erosion gullies or rills, and streams which are man-made, less than six (6) inches wide or not having a defined bed and/or bank are not included.

“SEPA” means the State Environmental Policy Act (RCW 43.21C), its implementing rules (WAC 197-11), and the Clark County environmental policy ordinance (Title 20 of this code).

“Snags” means dead, dying or defective trees serving as an important structural element of wild-life habitat.

“Stream bank stabilization” means those approved bioengineered projects. The projects can include both passive and active types of methods for stabilizing the stream bank.

“Streams” means those areas of year-round base flow, or where surface waters produce a defined channel.

“Vegetation” means any and all plant life. (Sec. 1 of Ord. 1997-05-30)

13.51.050 Habitat areas covered by this chapter.

(1) Categories. This chapter shall apply to nonexempt activities proposed within the habitat areas identified in Table 13.51.050:

TABLE 13.51.050. HABITAT AREAS COVERED BY ORDINANCE

Habitat Area	General Description	Definition
Riparian priority habitat	Shoreline areas of natural lakes, rivers and streams. These are the most common and biologically significant wildlife areas. Typically ¹ , Type 1 and 2 streams can be identified by a width of over 20 feet; Type 3 waters are typically between 5 and 20 feet wide, and Type 4 and 5 waters are less than 5 feet wide. All are measured from ordinary high water mark.	Areas extending outward from high water mark to the edge of the 100-year floodplain, or the following distances, if greater: DNR Type 1 and 2 waters, 250 feet; DNR Type 3 waters, 200 feet; DNR Type 4 and 5 waters, 150 feet. Type 1-5 definitions based on WAC 222-16-030. Erosion gullies or rills, and streams which are man-made, less than 6 inches wide or not having a defined bed and/or bank are not included.
Other priority habitats and species (PHS)	Individual select point sites containing particularly sensitive species or areas of unique habitat values.	Areas identified by and consistent with the Washington Department of Fish and Wildlife priority habitats and species criteria, including areas within 1,000 feet of individual species point sites.
Locally important habitats and species	Areas not meeting state PHS listings but recommended and designated because of local circumstances or values.	Areas legislatively designated by Clark County because of unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators, as specified in Section 13.51.055.

¹ See WAC 222-16-030 for exceptions and further clarifications.

(2) Mapping.

(a) The above habitat areas are mapped on a countywide basis in Exhibit A adopted with this ordinance. Mapping is on file in the planning division offices and available for public viewing and circulation. Further distribution and notification to potentially impacted property owners of map information of habitat area mapping will be completed as indicated in Sections 13.51.030(1) and 13.51.100(1) of this chapter.

(b) Mapping of certain individual point sites of sensitive, threatened, or endangered wildlife species is mapped and maintained separately, and under law is not available for widespread public distribution unless authorized by the Washington Department of Fish and Wildlife. However, any individual owners may obtain all available county sensitive point data information, if any, for their properties upon request.

(c) Official mapping shall be updated by Clark County or as warranted by new information using the annual review process.

(3) Best Available Science. The mapping and definition of habitat areas are based on the best available science. For the mapping and definitions of priority habitat and species, the supporting science is contained in the 1996 Washington Department of Fish and Wildlife Priority Habitats and Species List, and the 1995 Management Recommendations for Washington's Priority Habitats, Riparian, and associated map data. Best available scientific data supporting this chapter may be updated and/or re-evaluated as part of future ordinance changes.

(4) Determining Site Specific Applicability. In the event of inconsistencies, official habitat area definitions of priority habitats and species shall prevail over countywide mapping in determining applicability of this chapter if site specific information becomes available during the development review process or other means. Clark County shall follow the recommendations of the Washington Department of Fish and Wildlife in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.

(5) Consultation for Activities Adjacent to Certain Designated Habitat Areas.

Proposed new single-family residential development occurring immediately outside but within three hundred (300) feet of designated priority species polygons and within one hundred (100) feet of designated non-riparian priority habitat polygons shall require consultation with the Washington Department of Fish and Wildlife prior to issuance of a development permit. In such cases further review under this chapter is not required unless DFW finds that there are potential adverse impacts. Other proposed land division and nonresidential development adjacent to designated wildlife sites shall be subject to SEPA as normally required by Title 20 of this code, and mitigative measures established if there are adverse impacts to the adjacent designated habitat areas.

(6) Critical Areas Designated in Other County Ordinances. Proposals for clearing within wetlands, steep or unstable slopes or aquifer recharge areas are not subject to this chapter unless they overlap with designated habitat. However, review may be required under other county ordinances. Interested parties should refer to Chapters 13.36 (wetlands), 13.60 (geological hazardous areas), 13.70 (aquifer recharge areas) or contact the planning division. (Sec. 1 of Ord. 1997-05-30)

13.51.055 Locally important habitat.

This chapter shall also apply to areas which have been officially mapped by Clark County as locally important habitat. The chapter shall not apply to areas which have not been designated on official mapping. The criteria for mapping of these areas are that they possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators. Recommendations for mapping of areas meeting this criteria may be submitted by any person or group, and shall be reviewed annually by Clark County in conjunction with the plan amendments docket process as specified by Chapter 18.620. Notice of any such recommendations deemed to merit formal consideration shall be provided to

impacted property owners. Such recommendations will not be reviewed as part of individual development requests. (Sec. 1 of Ord. 1997-05-30)

13.51.060 Activities reviewed under this chapter.

(1) This chapter applies to activities within designated priority and locally important habitat

areas. All proposed activities outside designated habitat areas are exempt from review under this chapter, except where noted in Section 13.51.050 (5).

(2) General Exemptions. Proposed activities within habitat areas not consistent with an approved stewardship plan shall be subject to the exemption provisions of Table 13.51.060.

TABLE 13.51.060. EXEMPT AND REVIEWED ACTIVITIES

Proposal	Is a clearing review required?	Are any additional fees or review timelines required?
Land division or lot reconfiguration entirely outside habitat areas	No. Exempt	None
Land division or lot reconfiguration containing habitat areas	Exempt if impacted lots establish building and clearing envelopes outside of habitat	None. Adjustment to allow smaller lots necessary for critical lands protection can be provided without additional fees if consistent with overall zoning density as per Section 13.51.090(2)(a)
Any activities on lots not in habitat areas	Exempt	None
Any activities on portions of lots not containing habitat areas	Exempt	None
Remodel, replacement or expansion, not to exceed 25% of the 1997 footprint, of existing home or existing accessory buildings inside habitat areas. Home remodels, replacements or expansions of up to 500 square feet, or mobile home replacements of single-wide with double-wide models are also exempt	Exempt	None
Farming, forestry or vegetation removal activities inside existing yards, areas of existing agricultural use, or existing cultivated portion of habitat areas	Exempt	None
Clearing authorized by forest practices applications other than conversions in habitat areas	Exempt	None
Emergency clearing to abate immediate danger to persons or property	Exempt	None

TABLE 13.51.060. EXEMPT AND REVIEWED ACTIVITIES (Continued)

Proposal	Is a clearing review required?	Are any additional fees or review timelines required?
Fire hazard clearing recommended by fire marshal, or consistent with written fire marshal or fire chief guidelines in habitat areas	Exempt	None
Clearing of defined nuisance vegetation in habitat areas which utilize methods that minimize disturbance of soils and non-nuisance vegetation	Exempt	None
Clearing as minimally necessary for placement of fencing, private wells, septic systems or individual lot sewer, water, electrical or utility connections in habitat areas, where practical alternatives do not exist	Exempt	None
Clearing as minimally necessary for stream bank restoration, for native replanting or enhancements in habitat areas	Exempt	None
Clearing as minimally necessary for soil, water, vegetation or resource conservation projects having received an environmental permit from a public agency in habitat areas	Exempt	None
Clearing as minimally necessary for creating a 4-foot or narrower path using natural, wood-based, or gravel surfacing in habitat areas	Exempt	None
Clearing as minimally necessary for surveying or testing in habitat areas	Exempt	None
Clearing or development in riparian habitat areas which is at least 100 feet from the waterline and separated by a continuous public or private roadway serving 3 or more lots	Exempt	None
Nondevelopment clearing activities in habitat areas consistent with a recorded stewardship plan for which any mitigation specified in the plan is timely completed	Exempt	None
New home or other construction in habitat areas	Review required	No additional fees or timelines. Applicable review (building permit, etc.) must comply with ordinance standards
All other vegetation clearing in habitat areas	Review required	No additional fees. Applicable review, if any, must comply with ordinance standards. If no other review involved, clearing request will be reviewed administratively

(Sec. 1 of Ord. 1997-05-30)

13.51.070 Submittal information.

(1) Proposed nonexempt activities requiring review under this chapter shall submit applications as follows:

(a) Development applications involving other county review shall submit application materials according to specifications of other reviews involved, and shall also include a completed proposed habitat activity form.

(b) Nondevelopment applications not involving other county review shall submit a completed proposed habitat activity form.

(2) Where required by state law, a completed environmental checklist pursuant to the State Environmental Policy Act (SEPA) shall also be submitted unless categorically exempted by the SEPA rules.

(3) Clark County shall develop and make available proposed habitat activity forms. These forms shall clearly and concisely provide direction to applicants on what information is needed in the following areas:

(a) Name, address, location, and basic tracking information for the application;

(b) Existing conditions information, natural and man-made features on the site;

(c) Description and mapping of proposed activities and how this would change existing conditions on the site.

(4) Proposals under this chapter are encouraged but not required to include a report or other assistance from a biologist, botanist, ecologist, or other similarly qualified or trained professional.

(5) Persons interested in establishing an individual stewardship plan for future activities as specified in Section 13.51.030 should contact the Clark County planning division. (Sec. 1 of Ord. 1997-05-30)

13.51.080 Approval criteria.

(1) Intent. Designated habitats are to be protected through an avoidance or reduction of most activities. This section provides standards for the review of proposed nonexempt activities within these designated areas.

(2) Basic Criteria. Proposed activities subject to this chapter shall demonstrate that the proposal:

(a) Substantially maintains the level of habitat functions and values; and

(b) Minimizes habitat disruption or alteration beyond the extent required to undertake the proposal.

(3) Mitigation Measures. Mitigation measures may be established pursuant to the above basic criteria. Subject to individual circumstances, potential mitigation measures may include, but are not limited to the following:

(a) Avoiding the impact all together by not taking a certain action or parts of an action;

(b) Exploring alternative on-site locations to avoid or reduce impacts of activities;

(c) Preservation of important vegetation and natural habitat features through establishment of buffers or other limitations on clearing or alteration;

(d) Enhancement, restoration or replacement of vegetation or other habitat features and functions. In riparian areas, this may include buffer averaging as specified in Section 13.51.090(2)(c);

(e) Managing the access to habitat areas;

(f) Seasonal restriction on construction activities;

(g) Implementation of best management practices;

(h) Monitoring or review of impacts;

(i) Establishment of performance measures or bonding;

(j) Establishment of conservation covenants.

(4) Clark County shall approve, approve with conditions or if necessary deny proposals based on compliance with the basic criteria and the adequacy of mitigation measures to ensure compliance, and applicable reasonable use assurances of Section 13.51.090. Clark County shall retain final authority for such determinations, which shall be issued consistent with the review timelines of Chapter 18.600, and shall be based on best scientific information and analysis available within those timelines. Clark County shall consult with the Department of Fish and Wildlife and shall substan-

tially follow resulting recommendations of the DFW, unless alternative determinations are supported by scientific analysis. (Sec. 1 of Ord. 1997-05-30)

13.51.090 Regulatory incentives and reasonable use assurances.

(1) The following assurances shall apply in implementing the standards of this chapter:

(a) The standards of this chapter shall not be used to preclude the placement of a single-family residence on an otherwise legally buildable lot of record. Chapter standards may be applied on established properties to limit the proposed location of structures and proposed removal of vegetation.

(b) The standards of this chapter shall not be used to deny or reduce the number of lots of a proposed rural land division allowed under applicable zoning density.

(2) The following regulatory alternatives or incentives shall apply in implementing the standards of this chapter:

(a) Proposed land divisions involving critical areas may transfer density as follows:

(i) Rural area land divisions proposals may at no additional cost or process time include proposed substandard lot sizes, provided that overall density allowances are not exceeded, and the proposed lot size and configuration conserve the habitat areas through establishment of a conservation covenant which permanently protects habitat areas and ensures that the remainder lot will not be redivided in the future. Under no circumstances shall lots proposed under this process be smaller than one (1) acre.

(ii) Urban area land divisions may utilize density transfer provisions of Section 18.411.015.

(b) Existing contiguous nonconforming lots under common ownership may be reconfigured under the standards of CCC Section 18.302.095.

(c) Required riparian zone widths on clearing proposals on existing lots may be varied as follows:

(i) External Riparian Zone Averaging. Required riparian zones can be reduced to the average

shoreside building setback of existing neighboring residences which are within one hundred fifty (150) feet up and downstream. For the purpose of calculating this average, undeveloped neighboring property shall be considered as maintaining a setback equal to the normally required riparian zone width. For example, a new home proposed between an existing residence located fifty (50) feet from shore and an undeveloped property normally subject to a one hundred fifty (150) foot riparian width under this chapter may then be located as close as one hundred (100) feet from shore.

(ii) Internal Riparian Zone Averaging. Subject to review under this chapter, portions of the riparian zone can be reduced up to fifty percent (50%) from the normal standards of this chapter if riparian zone widths are correspondingly increased elsewhere within the applicant parcel, such that the overall size and function and values of the riparian zone are maintained in the parcel.

(3) In evaluating forest practice conversion applications under this chapter, Clark County may allow for modest levels of short-term degradation of habitat function if offset by long-term benefits provided by a conservation covenant or other permanent protective measure. Such allowances shall only be made following the recommendation of the Department of Fish and Wildlife. (Sec. 1 of Ord. 1997-05-30)

13.51.100 Non-regulatory implementation measures.

As part of the implementation of this chapter and related efforts towards wildlife conservation, Clark County will undertake the following additional nonregulatory measures:

(1) Education and Outreach Measures.

(a) Notify property owners within critical areas;

(b) Develop clear and understandable manuals explaining recommended best management practices for typical rural and urban land owner activities;

(c) Provide seminars and presentations for interested owners and groups;

(d) Coordinate efforts with existing conservation, stewardship or small resource-user groups

with expertise in wildlife or habitat area land management issues;

(e) Expand local wildlife inventory information through baseline survey of local habitats and species;

(f) Provide cooperative outreach to individual property owners in critical areas who wish to develop stewardship plans to establish parameters for future activities involving clearing on their property.

(2) Incentive Measures.

(a) Create and/or expand incentives through the current use taxation program;

(b) Develop and/or expand land acquisition programs. (Sec. 1 of Ord. 1997-05-30)

13.51.110 Permit authority and timelines.

(1) An approval granted under this chapter shall remain valid until proposed activities are undertaken. An approved permit not acted upon shall be valid for two (2) years, and upon showing of good cause, may be extended for an additional twelve (12) months. Approval for habitat area activities as part of other county development approvals shall be valid for a time period specified by the other permit(s) involved.

(2) Unless otherwise stipulated by the planning director, an approved conversion option harvest plan shall expire six (6) years from the date of approval.

(3) Approved stewardship plans shall remain valid as specified in Section 13.51.030. (Sec. 1 of Ord. 1997-05-30)

13.51.120 Enforcement.

At such time as a violation of this chapter has been determined, enforcement action shall be commenced in accordance with the enforcement provisions of Title 32 of this code, and may also include the following:

(1) Applications for county land use permits on sites cleared in violation of this standard shall not be processed until three (3) years after the completion of clearing; PROVIDED, that the three (3) years may be reduced upon approval and imple-

mentation of a restoration or mitigation plan, to include the following:

(a) A plan for the replanting of trees, brush and groundcover of a type and distribution comparable to that existing prior to clearing; PROVIDED, that the planning director may approve alternative species in order to promote expedient soil stabilization, and may require additional tree planting as mitigation for the loss of mature trees; and

(b) A monitoring plan to assure at least a ninety percent (90%) survival rate of reestablished plantings after three (3) growing seasons; and

(c) Where fish and wildlife habitat areas are cleared in violation of this chapter, a plan to restore habitat functionality, subject to the review and evaluation of the Washington Department of Fish and Wildlife.

(2) In the absence of any mitigation measures approved by the department for sites cleared in violation of this standard, the county may refuse to approve any permit for up to an additional three (3) years. (Sec. 1 of Ord. 1997-05-30)

Chapter 13.60

**GEOLOGIC HAZARD AREAS
REGULATIONS**

Sections:

Article I. General Provisions

- 13.60.010 Purpose.**
- 13.60.020 Applicability and exemptions.**
- 13.60.030 Geologic hazard area mapping and designation.**
- 13.60.040 Relationship to Title 20 environmental impacts.**
- 13.60.050 Reasonable use assurance.**
- 13.60.060 Density transfer.**
- 13.60.070 Open space tax incentives.**